

DTSC FY12 EOY Compliance Monitoring and Enforcement Summary

California's Regulated Universe ¹						
Active TSD	Inactive TSD	Land-fills	Combustion	LQG	SQG	Transporters
64	176	3	2	4,815²	48,348³	959

Table 1 – California's Regulated Universe

¹ Per RCRAInfo reports pulled 9/21/12 (except transporter universe from DTSC's HWTS system)

² EPA obtained a copy of DTSC's manifest databases and estimated the LQG universe to be 1293 based on the number of generators that shipped 12 tons or more of RCRA hazardous waste in calendar year 2011. These data inaccuracies should be addressed.

³ Includes numerous facilities that have not de-activated their ID numbers.

Inspection Accomplishments			
Type of Facility	Workplan Commitment	Outcome Reported in EOY	Number Reported in RCRAInfo
Operating TSD	37 – 39	52	46
Post-Closure Facilities	7 – 11	7	10
Incinerators	--¹	2	2
Generators	7	9	29
Transporter	--	32	3
Other (E-waste, FRRs, etc.)	--	170	92

Table 2 – Inspection Accomplishments

¹In the workplan DTSC indicates that these inspections will be conducted as resources are available, but does not commit to a specific number.

Note: California's hazardous waste program is both broader in scope and more stringent than the federal program. For example, under California regulations, some facilities are considered TSDs, but under federal regulations, and in RCRAInfo, these facilities would be categorized as waste generators. Additionally, a facility categorized as a small quantity generator in RCRAInfo could be a state-waste-only large quantity generator. Therefore, the individual inspection and enforcement outcomes reported by DTSC are difficult to reconcile with what is reported in RCRAInfo.

Inspection Summary

1. **TSD Inspections.** DTSC reported 52 compliance evaluation inspections at operating RCRA TSDs in the End of Year Self Assessment. There are 46 operating RCRA TSD inspections entered in RCRAInfo. The commitment of 37-39 inspections was exceeded. Both facilities with incinerators were inspected. EERP reported 7 inspections at post-closure (PC) TSDs. There are 10 compliance evaluation inspections at PC facilities entered in RCRAInfo. The number of PC TSDs inspections is within the commitment range of 7-11 inspections.
2. **Generators.** DTSC reported conducting 9 generator inspections. RCRAInfo shows 29 compliance evaluation inspections at LQGs and SQGs, and an additional 92 other types of inspections at LQGs/SQGs. The commitment of 7 has been met and exceeded.

3. Transporters. DTSC reported conducting 32 transporter inspections. Because transporters are often also listed as waste generators, it is difficult to determine the number of these inspections in RCRAInfo. At least 3 inspections in the database appear to be transporter-only inspections.
4. Used Oil. DTSC's Used Oil Team reported conducting inspections at 8 used oil transporters, 2 used oil transfer facilities, and all 5 permitted used oil recycling facilities. RCRAInfo does not identify used oil facilities as a separate universe, so EPA cannot distinguish these used oil inspections from generator inspections.
5. Other. DTSC reported a total of 170 inspections, including 25 financial record reviews (FRR), non-financial record reviews and 145 e-waste inspections. Only 92 of these inspections are shown in RCRAInfo. This discrepancy may be a result of e-waste and FRR at facilities not having an EPA identification number, so these inspections are not registered into RCRAInfo. DTSC also reported completing 18 non-RCRA funded FRRs. Of the 76 e-waste recycler inspections, 4 resulted in a formal enforcement action. Of the 69 e-waste collector inspections, 3 resulted in formal enforcement.
6. Complaints. DTSC reported receiving 652 formal complaints, with 517 referred. There are currently 69 of these complaints under investigation by EERP.

A. Enforcement Program Accomplishments

EERP reported initiating 50 administrative/civil cases and settling 51 with penalties totaling \$3,922,857. Of these 51 settled cases, 21 were RCRA funded cases with penalties totaling \$3,246,757. The remaining 30 cases were non-RCRA funded cases with penalties totaling \$676,100.

Enforcement Actions						
Agency Action	Total Number (RCRA and non-RCRA) Reported	RCRA Cases	Number Reported in RCRAInfo	Number ¹ Timely (%)	Criteria (days)	Goal (%)
Informal Actions	NA	NA	80	78 (98%)	150	80%
Formal Actions Initiated	50	20	30	8 (27%)	240	80%
Settlements (of admin. penalty orders)	51	21	26	15 (58%)	360	80%
Enforcement SEPs ²	4	3	4	NA	NA	NA

Table 3 – Enforcement Actions

¹ Number of timely per RCRAInfo data

² SEP = Supplemental Environmental Project (includes California Compliance School)

C. Key Compliance Program Indicators

Trends of Key Compliance Program Indicators (As Reported in RCRAInfo)			
Indicator	FY 2010	FY2011	FY2012
Inspections (CEIs, FUIs, FCIs)	148	156	207
Operating TSDF Inspections	38	47	46
Inspections w/ Violations	59 (40%)	76 (49%)	74 (36%)
Inspections w/SNC¹	13 (9%)	25 (16%)	28 (14%)
Informal Actions	75	89	80
Timeliness of Settlements	48%	47%	58%
Settlements	29	19	21
Average # of days to settle	582	670	646
Fines and Penalties	\$1,183,216	\$1,598,752	\$3,411,057
SEPs²	6	0	4
Value of SEPs	\$103,850	\$0	\$13,000

Table 4 – Trends of Key Compliance Program Indicators

¹ SNC (significant non-complier)

² DTSC's definition of Supplemental Environmental Projects differs from EPA's definition, as DTSC may include referrals to the California Compliance School and reimbursement of compliance costs.

DTSC's data indicates that only 8 of their 30 cases were initiated in less than 240 days. However, more than half (58%) of their cases are settled in less than 360 days. In addition, the average number of days to settle cases reflects the complexity of some of their enforcement case development.

D. CUPA Program Activities

Oversight of the 83 local government agencies (Certified Unified Program Agencies - CUPAs) that implement the RCRA generator compliance program as well as 7 other statutes in California presents a formidable challenge. DTSC needs significant resources to ensure adequate oversight and the continuing development of CUPAs hazardous waste inspection and enforcement program. During SFY 12, EERP responded to 48 questions on RCRA, participated in 31 CUPA program evaluations, and conducted 36 CUPA oversight inspections.

DTSC provided training and technical assistance on an as-needed and as-requested basis to specific CUPAs. DTSC also provided multiple hazardous waste generator trainings, including 12 sessions of the California Compliance School. In addition, the training provided at the CUPA conference provides invaluable guidance to local government agencies on the hazardous waste program.

Imperial County and Trinity County Programs: CalEPA has designated DTSC as the CUPA for Imperial and Trinity Counties. DTSC performed 109 hazardous waste generator inspections in Imperial County and 21 hazardous waste generator inspections in

Trinity County. One formal enforcement action in Imperial County was settled for \$27,500. Out of a total 130 inspections, the information from only 1 inspection, in Imperial County, has been entered into RCRAInfo.

E. Issues and Recommendations

1. **Issue:** California's data in RCRAInfo does not accurately reflect accomplishments. The data in RCRAInfo significantly underreports the work and accomplishments that DTSC reported in the end-of-year self assessment. For example, of 234 inspections reported by DTSC in their end-of-year report, RCRAInfo includes only 182 inspections. Additionally, because of the differences in the federal vs. state program, the numbers DTSC provides are difficult to reconcile with the data in RCRAInfo. Since financial assurance data are not kept in DTSC's Envirostor, it is also not updated in EPA's RCRAInfo and therefore DTSC's accomplishments cannot be verified.

Recommendation: DTSC should develop data entry and quality control procedures that ensure all components of their RCRA inspection and enforcement program are reflected in RCRAInfo data. DTSC should periodically run RCRAInfo reports, and ensure all RCRA accomplishments are being entered. All RCRA accomplishments need to be recorded in RCRAInfo, since this database is the official Federal database of record that is used for Congressional inquiries, GPRA reporting, and tracking of RCRA accomplishments by EPA HQ.

2. **Issue:** DTSC reported in their end-of-year report that they had missed 18 RCRA funded financial record review commitments. Assessing facilities' financial assurance and determining whether adequate funds are available for closure and clean up is a national priority. The commitments were missed because the Financial Assurance Unit was operating with a reduced staff of analysts: three analysts rather than four.

Recommendation: DTSC should fill the analyst position as soon as possible and assess whether four analysts are sufficient to complete the future work load.

3. **Issue:** Enforcement accomplishments for Imperial and Trinity County Programs are not reflected in RCRAInfo. CalEPA designated DTSC as the CUPA for Imperial and Trinity counties. DTSC performed 109 hazardous waste generator inspections in Imperial County and 21 hazardous waste generator inspections in Trinity County. One formal enforcement action in Imperial County was settled for \$27,500. Only one inspection, in Imperial County, has been entered into RCRAInfo. This problem is a common issue among CUPAs.

Recommendation: DTSC should enter the information into RCRAInfo as soon as possible. DTSC should establish a procedure for entering data into RCRAInfo. DTSC should periodically run RCRAInfo reports, and ensure all RCRA accomplishments are being entered. DTSC should be a model for other CUPAs to follow.